

# Ciarametaro Deposition Transcript Excerpts

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

- - - - - x

UNITED STATES OF AMERICA

Plaintiff

vs. CA No. 1:23-CV-00853-DAE

GREG ABBOTT, in his capacity as

GOVERNOR OF THE STATE OF TEXAS,

and THE STATE OF TEXAS

Defendants

- - - - - x

DEPOSITION of THOMAS CIARAMETARO

Tuesday, July 9, 2024 - 9:22 a.m.

US Attorney's Office for the

District of Massachusetts

1 Courthouse Way, Suite 9200

Boston, Massachusetts 02210

Reporter: Jill K. Ruggieri, RPR, RMR, FCRR, CRR

Job No. CS6783958

1                   What types of law would you  
2           consider yourself to be an expert in?

3           A       Maritime law, Chapter 90B, Mass.  
4           General Laws, boating laws, maritime navigation  
5           laws, stuff like that.

6           Q       Okay.

7                   Would you --

8           A       Federal laws, maritime federal laws.

9           Q       Would you consider yourself a legal  
10          expert in interpretation of the Rivers and  
11          Harbors Act?

12          A       No.

13          Q       Are you offering any -- in your  
14          report any legal interpretations of the Rivers  
15          and Harbors Act?

16          A       I believe I do, yes.

17          Q       Are you offering those as opinions to  
18          be considered or just as background information  
19          about the case?

20          A       Background information and  
21          definitionwise, or certain definitions,  
22          quotations from the Rivers and Harbors Act, and  
23          as background information.

24          Q       Did you -- did you do that research  
25          yourself or did you -- or was that something

1 that you had to rely on others --

2 A I didn't rely on anybody, but I -- it  
3 was a combination of research that was provided  
4 and research that I did on my own.

5 Q Are there any assumptions you were  
6 asked to make by Texas that you then agreed to  
7 make and incorporate into your opinion?

8 A I was given some definitions in which  
9 I did not rely on. Due to my experience,  
10 education and training, I came to my own  
11 conclusions.

12 Q Okay.

13 So there's no -- so your report  
14 does not include any definitions that you just  
15 accepted and relied on from someone else.  
16 If -- anything in there is something that you  
17 had independently determined?

18 A There are, I believe, two definitions  
19 in here which were given to me by the State of  
20 Texas, but I did not solely rely on them to  
21 make my determinations.

22 Q Okay.

23 Which two were those?

24 A I'd have to look. I believe there  
25 may actually be one...

1 (The deponent read the  
2 document.)

3 A Oh, no, it's two -- navigable  
4 waters --

5 Q Can you mention for the court  
6 reporter what page?

7 A Oh, sorry, page 9 of Exhibit 1,  
8 navigable waters. And I believe the term  
9 "buoy" on page 18 of Exhibit 1. I believe  
10 that's it, unless I'm overlooking something.

11 Q And so the one -- so on page 9,  
12 navigable waters, that would be beginning from  
13 the sixth line down on that page?

14 A Just let me make sure... yeah, I  
15 believe so.

16 Q So would I understand that correctly  
17 to be the portion from that line through the  
18 end of that page?

19 A Correct.

20 Q Okay. That's the navigable waters  
21 definition you referred to.

22 And then on page 18, buoys.  
23 Would I understand correctly that you're  
24 referring to the beginning of the first line of  
25 text on that page?

1 A Yes, sir.

2 Q And from there, how far down?

3 A Just that first paragraph.

4 Q Okay.

5 So that first paragraph of, I  
6 think, seven lines?

7 A Correct.

8 Q Six lines. I can't count. Sorry.

9 (Laughter.)

10 A Yeah. Six. Six.

11 Q Thank you.

12 Do you consider yourself to be  
13 an expert in economics?

14 A No.

15 Q So are you -- so, for example, you  
16 testified earlier that some of the factors that  
17 would go into whether a waterway is a highway  
18 of commerce would be the conditions physically  
19 of the waterway and some would be the  
20 infrastructure, right?

21 A Correct.

22 Q I take it you're not offering  
23 opinions in this case about -- from an  
24 economist's point of view about, you know,  
25 whether the cost and benefits would justify

1 may be a -- just go ahead and take a little  
2 lunch break?

3 MS. AL-FUHAID: That sounds good  
4 to me.

5 Want to take lunch?

6 THE DEPONENT: Sure, yeah.  
7 Could use a head break anyway, so...

8 (Discussion off the record.)

9 (Lunch recess.)

10 BY MR. LYNK:

11 Q Earlier today we looked at three  
12 passages in the report that you identified as  
13 definitions from counsel.

14 I wanted to ask you about one  
15 other paragraph.

16 A Okay.

17 Q This is paragraph -- the last  
18 paragraph on page 8 of Exhibit 1.

19 A Oh, page 8, sorry.

20 (The deponent read the  
21 document.)

22 Q Do you see a paragraph that starts,  
23 "The RHA generally applies to 'navigable'  
24 waters of the US," and then it continues?

25 A Yes. I believe part of this

1 definition is -- is part of the other ones and  
2 part of it is mine.

3 I think I -- I think -- oh, I  
4 thought we went over this with navigable  
5 waters. I guess it just starts back a little  
6 farther.

7 Q Got it. You're right.

8 A Yeah, yeah, sorry.

9 Q If you turn to the next page --

10 A Yeah, so --

11 Q -- there's a paragraph that starts  
12 "Navigable waters." So basically --

13 A It just --

14 Q -- that's a continuing part of this  
15 passage?

16 A Correct.

17 Q Okay.

18 A Yes.

19 Q All right.

20 So when we were talking about  
21 the definitions from counsel and when we  
22 referred to the one that at that point you said  
23 starts on page 9, you just corrected to say  
24 it's this passage starting here, the last  
25 paragraph of page 8, and continuing through



1 page 9, correct?

2 A That is correct.

3 Q Got it.

4 And as to this one and the other  
5 two you mentioned in your testimony, those are  
6 the three definitions received from counsel?

7 A Correct.

8 Q And as to each of those, it would be  
9 accurate to say you didn't separately research  
10 them or separately develop those?

11 You received those from counsel?

12 A I received these from counsel but did  
13 not rely on them for the conclusions in my  
14 report.

15 Q Okay.

16 You didn't rely on them for the  
17 conclusions in your report, and they weren't --  
18 these three things weren't things that you  
19 developed yourself while you worked on your  
20 report?

21 A Correct.

22 Q Okay.

23 And I -- so I wouldn't expect --  
24 there's no other discussion in the report that  
25 relies on these three definitions, the --

1                   When I say "three," I mean your  
2                   earlier testimony referred to two other places.

3                   A       Correct.

4                   Q       I could go back and verify which  
5                   pages, but you understand what I was referring  
6                   to, correct?

7                   A       I do.

8                   Q       Do you anticipate that you would  
9                   testify at trial about those three definitions?

10                  A       I do.

11                  Q       You would testify about them?

12                  A       To the -- my concurrence with them,  
13                  that I agree with them, and that my conclusions  
14                  that I've -- based on my training, experience  
15                  and education correspond with these  
16                  definitions.

17                  Q       So do you consider yourself  
18                  independently qualified to speak to -- of a  
19                  definition set forth that begins, "The RHA  
20                  generally applies," and then continuing through  
21                  the next page? Is that something you are  
22                  qualified to give an opinion about?

23                  A       Yes, yes.

24                  Q       Earlier you said you were not a legal  
25                  expert in the Rivers and Harbors Act, right?

1 advice on whether the application had been done  
2 in a way that made it approvable under the  
3 Rivers and Harbors Act?

4 A I have given advice to people in my  
5 official capacity as to their application  
6 process that relates to these permits as a  
7 municipal level of review.

8 Q Would you have -- and you were a  
9 public official, I take it, as the Gloucester  
10 harbormaster?

11 A Correct.

12 Q Would you have held yourself out to  
13 the City of Gloucester as someone they could  
14 look to for a legal opinion as to whether the  
15 permit application was legally correct?

16 A Yes, yes.

17 Q And you have done that?

18 A People, for example, that want to  
19 apply for a dock and gangway in front of their  
20 home, their first step in that process, which  
21 is -- eventually will be an Army Corps  
22 Engineering permit, their very first step is  
23 the Gloucester harbormaster's office.

24 Q But you would specifically -- you  
25 would be comfortable representing to them that

1       you could legally advise them on --

2           A       I would give them opinions on  
3       different avenues and the legal process in  
4       which it was to obtain.

5                   I wouldn't represent them in any  
6       kind of courtroom setting, but part of my job  
7       was to advise and educate on the legal process  
8       or the processes on obtaining permits, not in a  
9       lawyer capacity, just as a public official and  
10      a department head in which these structures  
11      fell under my jurisdiction.

12           Q       This passage that we're looking at  
13      that starts on page 8, about eight lines down,  
14      it quotes some language from, it looks to be a  
15      court case called United States v. Republic  
16      Steel Corporation.

17                   Do you see that?

18           A       I do.

19           Q       So would you say that you have the  
20      expertise, for example, to interpret the  
21      significance of that court case and how it  
22      might apply in any subsequent cases?

23           A       No.

24           Q       And was there a reason that you took  
25      these definitions from counsel rather than

1 writing them yourself?

2 A I fully agree with these definitions,  
3 so I felt no need to write them for myself. I  
4 concur with the definitions that are -- were  
5 supplied to me.

6 After doing a full analysis of  
7 the entirety of this report, I felt that these  
8 definitions were concurrent with my own  
9 conclusions.

10 Q Did you ask for definitions to be  
11 provided?

12 A I don't believe so.

13 Q Okay.

14 Did you need these legal  
15 definitions in order to write the remainder of  
16 your report?

17 A I did not.

18 Q So they are not significant to the  
19 conclusions you reach in your report?

20 A Correct.

21 Q There's -- I wanted to look at  
22 page 32 of your report. And do you see about  
23 five lines from the bottom of the page, there's  
24 a sentence that says, "The buoys are not  
25 permanently moored"?

1 A Mm-hmm.

2 Q What do you mean by saying that  
3 they're not "permanently moored"?

4 A They could be removed. Generally,  
5 moorings are temporary in nature, so just like  
6 the mooring balls we observed out here in  
7 Boston Harbor on the way out to lunch, those  
8 are temporarily moored and can easily be  
9 removed or moved, depending on a variety of  
10 circumstances, whether a bigger boat needs to  
11 go there, you could move the moorings farther  
12 or closer apart, or you could remove them  
13 altogether.

14 It's not -- moorings are  
15 generally temporary in nature, in my  
16 experience.

17 Q Moorings are generally temporary in  
18 nature.

19 Can there ever be a circumstance  
20 in which something is permanently moored in the  
21 water?

22 A Yeah, usually pile-supported  
23 structures, like pilings, stuff like that.

24 Q Can you explain just -- just for the  
25 benefit of the record, what would be a

1 Mr. Lynk's questions that that entire paragraph  
2 was provided to you by counsel for Texas.

3 Was that entire paragraph, in  
4 fact, provided to you, or does it contain any  
5 of your own separate conclusions?

6 A Well, the top couple sentences are my  
7 conclusion, and the bottom one, two, three  
8 sentences are mine.

9 The -- what I was referring to  
10 is the actual -- I guess it would be the center  
11 of the paragraph where it pertains to the  
12 actual definition under United States v. Hall:  
13 "Structures may" -- "must affect," the actual  
14 definition. But, "The buoys do not affect the  
15 course, location, or condition of the  
16 Rio Grande River in such a manner as to impact  
17 its navigable capacity, for all reasons  
18 discussed elsewhere in this report; therefore,  
19 the buoys are not structures," that belongs to  
20 me. That is my work and my opinion.

21 And the top, "Finally, the buoys  
22 are not structures under the RHA. 'Structures'  
23 means 'any pier, boat dock, boat ramp, wharf,  
24 dolphin, weir, boom, breakwater, bulkhead,  
25 revetment, riprap, jetty, artificial island,

1 reef, permanent structure, power or  
2 transmission lines, permanently moored floating  
3 vessel, pilings," that's my work as well.

4 Q Well, let me ask you about that.

5 A Well, not the --

6 Not quite that far. No, I  
7 believe that is -- I believe that -- I believe  
8 that I wrote the top part of this. I can't  
9 remember specifically.

10 I think I may have changed a few  
11 things in here, but definitely the bottom.

12 Q Okay.

13 A I don't recall how far down I went  
14 with this definition, but I know that --

15 Q Did you -- I'm sorry. I didn't mean  
16 to cut you off.

17 A No, go for it. I'm just trying to  
18 think back now.

19 Q The second sentence, the second  
20 sentence of the paragraph --

21 A Mm-hmm.

22 Q -- where it says -- the first word of  
23 that sentence, "structures"?

24 A Correct.

25 Q Is that from the regulatory



1 definition or is that your own definition? Or  
2 was that -- was that supplied to you?

3 A I know that I added some to this  
4 definition. I'm not sure, I'm not exactly sure  
5 where I stopped and started here.

6 (The deponent read the  
7 document.)

8 A "The buoys are..." that is mine. So  
9 I believe the definition starts at  
10 "structures," that was provided to me, now  
11 reading through this entire thing here.

12 Q Okay.

13 A So the first sentence and the last  
14 three.

15 Q The last three lines or the last --

16 A The last three lines, yes.

17 (Simultaneous speech.)

18 (Reporter interrupted.)

19 A Sorry about that.

20 I'm trying to just think back  
21 because I know I changed stuff in this opinion  
22 a couple times, so I'm just trying to make sure  
23 I'm going on the record with the right thing  
24 here.

25 Yeah, "Finally, the buoys are

1 not other structures under the RHA." That's  
2 me.

3 "Structure" starts the  
4 definition. And then the last three sentences,  
5 where "The buoys do not affect the course,  
6 location," that's where I come back in as well.

7 Q Okay.

8 A I had changed some of these opinions  
9 a few times, so I was just trying to think  
10 back, make sure that I'm back -- I'm speaking  
11 accurately here.

12 Q Okay.

13 Now, I'd like to direct your  
14 attention to page 19 of your report --

15 A Mm-hmm. Okay.

16 Q -- to Figure 15.

17 A Yup.

18 Q Now, you testified earlier in  
19 response to one of Mr. Lynk's questions that  
20 you took this picture on the day of your site  
21 visit to Eagle Pass; is that correct?

22 A Yes.

23 Q And you also testified earlier that  
24 in this spot, you believe that it would be  
25 possible to climb over the buoys.